

108TH CONGRESS  
1ST SESSION

# H. R. 147

To amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of certain works of artistic property created by the decedent.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. NADLER introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of certain works of artistic property created by the decedent.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Artists’ Estate Tax  
5       Fairness Act”.

6       **SEC. 2. EXCLUSION FROM GROSS ESTATE OF VALUE OF**  
7                       **CERTAIN WORKS OF ARTISTIC PROPERTY**  
8                       **CREATED BY DECEDENT.**

9       (a) IN GENERAL.—Section 2031 of the Internal Rev-  
10       enue Code of 1986 (relating to definition of gross estate)

1 is amended by striking subsection (d) and inserting after  
2 subsection (c) the following:

3 “(d) WORKS OF ARTISTIC PROPERTY CREATED BY  
4 THE DECEDENT.—

5 “(1) IN GENERAL.—If the executor makes the  
6 election described in paragraph (4), there shall be  
7 excluded from the gross estate the value of each  
8 qualified work of artistic property held by the dece-  
9 dent at the time of his death if, by his personal ef-  
10 forts, the decedent created such qualified work of ar-  
11 tistic property.

12 “(2) APPLICATION.—Paragraph (1) shall not  
13 apply unless the decedent held at the time of his  
14 death not less than 50 of such qualified works of ar-  
15 tistic property.

16 “(3) QUALIFIED WORK OF ARTISTIC PROP-  
17 erty.—For purposes of paragraph (1), the term  
18 ‘qualified work of artistic property’ means a—

19 “(A) painting,

20 “(B) drawing,

21 “(C) sculpture,

22 “(D) sculpture that is in multiple cast,  
23 carved, or fabricated of 200 or fewer that are  
24 consecutively numbered by the decedent and

1           bear the signature or other existing mark of the  
2           decedent,

3           “(E) monoprint or monotype that is a  
4           unique print or a print pulled in an edition of  
5           1: a single impression,

6           “(F) print that is in a limited edition of  
7           not more than 200 copies that are signed and  
8           consecutively numbered by the decedent, or

9           “(G) a still photographic image produced  
10          for exhibition purposes only, existing in a single  
11          copy that is signed by the decedent, or in a lim-  
12          ited edition of 200 copies or fewer that are  
13          signed and consecutively numbered by the dece-  
14          dent.

15          “(4) ELECTION.—The election under this sub-  
16          section shall be made on or before the due date (in-  
17          cluding extensions) for filing the return of tax im-  
18          posed by section 2001 and shall be made on such re-  
19          turn.

20          “(e) CROSS REFERENCES.—

**“(1) For executor’s right to be furnished on re-  
request a statement regarding any valuation made by  
the Secretary within the gross estate, see section  
7517.**

**“(2) For income in respect of a decedent in the  
case of works of art of the decedent who created  
such property, see section 691.”.**

21          (b) INCOME IN RESPECT OF DECEDENTS.—Sub-  
22          section (a) of section 691 of such Code (relating to inclu-

1 sion in gross income of recipients of income in respect of  
 2 decedents) is amended by adding at the end the following  
 3 new paragraph:

4           “(6) CERTAIN WORKS OF ARTISTIC PROP-  
 5 ERTY.—For purposes of paragraphs (1), (2), and  
 6 (3), a work of artistic property whose value was ex-  
 7 cluded from the gross estate of a decedent under  
 8 section 2031(d) shall be treated as a right to receive  
 9 an item of income in respect of a decedent.”.

10 (c) CARRYOVER BASIS.—

11           (1) IN GENERAL.—Subsection (a) of section  
 12 1014 of such Code (relating to general rule for basis  
 13 of property acquired from a decedent) is amended by  
 14 striking “or” at the end of paragraph (3), by strik-  
 15 ing the period at the end of paragraph (4) and in-  
 16 serting “, or”, and by adding at the end the fol-  
 17 lowing new paragraph:

18           “(5) in the case of a work of artistic property  
 19 treated as a right to receive an item of income in re-  
 20 spect of the decedent under section 691(a)(6), the  
 21 basis in the hands of the decedent.”.

22           (2) CONFORMING AMENDMENT.—Subsection (c)  
 23 of section 1014 of such Code (relating to property  
 24 representing income in respect of a decedent) is

1       amended by striking “This” and inserting “Except  
2       as provided by subsection (a)(5), this.”.

3       (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to decedents dying after the date  
5 of the enactment of this Act.

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